

**As Reported by the House Civil Justice Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. S. B. No. 27**

**Senator Uecker**

**Cosponsors: Senators Terhar, Brenner, Roegner, Huffman, M., McColley, Wilson, Hottinger, Huffman, S., Burke, Coley, Eklund, Gavarone, Hill, Hoagland, Lehner, Obhof Representatives Hambley, Merrin**

**A BILL**

To amend sections 2317.56, 3701.341, and 3701.79 1  
and to enact sections 3726.01, 3726.02, 3726.03, 2  
3726.04, 3726.041, 3726.042, 3726.05, 3726.09, 3  
3726.10, 3726.11, 3726.12, 3726.13, 3726.14, 4  
3726.15, 3726.16, 3726.95, 3726.99, and 4717.271 5  
of the Revised Code to impose requirements on 6  
the final disposition of fetal remains from 7  
surgical abortions. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2317.56, 3701.341, and 3701.79 be 9  
amended and sections 3726.01, 3726.02, 3726.03, 3726.04, 10  
3726.041, 3726.042, 3726.05, 3726.09, 3726.10, 3726.11, 3726.12, 11  
3726.13, 3726.14, 3726.15, 3726.16, 3726.95, 3726.99, and 12  
4717.271 of the Revised Code be enacted to read as follows: 13

**Sec. 2317.56.** (A) As used in this section: 14

(1) "Medical emergency" has the same meaning as in section 15  
2919.16 of the Revised Code. 16

(2) "Medical necessity" means a medical condition of a 17

pregnant woman that, in the reasonable judgment of the physician 18  
who is attending the woman, so complicates the pregnancy that it 19  
necessitates the immediate performance or inducement of an 20  
abortion. 21

(3) "Probable gestational age of the zygote, blastocyte, 22  
embryo, or fetus" means the gestational age that, in the 23  
judgment of a physician, is, with reasonable probability, the 24  
gestational age of the zygote, blastocyte, embryo, or fetus at 25  
the time that the physician informs a pregnant woman pursuant to 26  
division (B) (1) (b) of this section. 27

(B) Except when there is a medical emergency or medical 28  
necessity, an abortion shall be performed or induced only if all 29  
of the following conditions are satisfied: 30

(1) At least twenty-four hours prior to the performance or 31  
inducement of the abortion, a physician meets with the pregnant 32  
woman in person in an individual, private setting and gives her 33  
an adequate opportunity to ask questions about the abortion that 34  
will be performed or induced. At this meeting, the physician 35  
shall inform the pregnant woman, verbally or, if she is hearing 36  
impaired, by other means of communication, of all of the 37  
following: 38

(a) The nature and purpose of the particular abortion 39  
procedure to be used and the medical risks associated with that 40  
procedure; 41

(b) The probable gestational age of the zygote, 42  
blastocyte, embryo, or fetus; 43

(c) The medical risks associated with the pregnant woman 44  
carrying the pregnancy to term. 45

The meeting need not occur at the facility where the 46

abortion is to be performed or induced, and the physician 47  
involved in the meeting need not be affiliated with that 48  
facility or with the physician who is scheduled to perform or 49  
induce the abortion. 50

(2) At least twenty-four hours prior to the performance or 51  
inducement of the abortion, the physician who is to perform or 52  
induce the abortion or the physician's agent does each of the 53  
following in person, by telephone, by certified mail, return 54  
receipt requested, or by regular mail evidenced by a certificate 55  
of mailing: 56

(a) Inform the pregnant woman of the name of the physician 57  
who is scheduled to perform or induce the abortion; 58

(b) Give the pregnant woman copies of the published 59  
materials described in division (C) of this section; 60

(c) Inform the pregnant woman that the materials given 61  
pursuant to division (B) (2) (b) of this section are published by 62  
the state and that they describe the zygote, blastocyte, embryo, 63  
or fetus and list agencies that offer alternatives to abortion. 64  
The pregnant woman may choose to examine or not to examine the 65  
materials. A physician or an agent of a physician may choose to 66  
be disassociated from the materials and may choose to comment or 67  
not comment on the materials. 68

(3) If it has been determined that the unborn human 69  
individual the pregnant woman is carrying has a detectable fetal 70  
heartbeat, the physician who is to perform or induce the 71  
abortion shall comply with the informed consent requirements in 72  
section 2919.194 of the Revised Code in addition to complying 73  
with the informed consent requirements in divisions (B) (1), (2), 74  
(4), and (5) of this section. 75

(4) Prior to the performance or inducement of the 76  
abortion, the pregnant woman signs a form consenting to the 77  
abortion and certifies ~~both~~ all of the following on that form: 78

(a) She has received the information and materials 79  
described in divisions (B) (1) and (2) of this section, and her 80  
questions about the abortion that will be performed or induced 81  
have been answered in a satisfactory manner. 82

(b) She consents to the particular abortion voluntarily, 83  
knowingly, intelligently, and without coercion by any person, 84  
and she is not under the influence of any drug of abuse or 85  
alcohol. 86

(c) If the abortion will be performed or induced 87  
surgically, she has been provided with the notification form 88  
described in division (A) of section 3726.14 of the Revised 89  
Code. 90

(d) If the abortion will be performed or induced 91  
surgically and she desires to exercise the rights under division 92  
(A) of section 3726.03 of the Revised Code, she has completed 93  
the disposition determination under section 3726.04 or 3726.041 94  
of the Revised Code. 95

A form shall be completed for each zygote, blastocyte, 96  
embryo, or fetus to be aborted. If a pregnant woman is carrying 97  
more than one zygote, blastocyte, embryo, or fetus, she shall 98  
sign a form for each zygote, blastocyte, embryo, or fetus to be 99  
aborted. 100

The form shall contain the name and contact information of 101  
the physician who provided to the pregnant woman the information 102  
described in division (B) (1) of this section. 103

(5) Prior to the performance or inducement of the 104

abortion, the physician who is scheduled to perform or induce 105  
the abortion or the physician's agent receives a copy of the 106  
pregnant woman's signed form on which she consents to the 107  
abortion and that includes the certification required by 108  
division (B) (4) of this section. 109

(C) The department of health shall publish in English and 110  
in Spanish, in a typeface large enough to be clearly legible, 111  
and in an easily comprehensible format, the following materials 112  
on the department's web site: 113

(1) Materials that inform the pregnant woman about family 114  
planning information, of publicly funded agencies that are 115  
available to assist in family planning, and of public and 116  
private agencies and services that are available to assist her 117  
through the pregnancy, upon childbirth, and while the child is 118  
dependent, including, but not limited to, adoption agencies. The 119  
materials shall be geographically indexed; include a 120  
comprehensive list of the available agencies, a description of 121  
the services offered by the agencies, and the telephone numbers 122  
and addresses of the agencies; and inform the pregnant woman 123  
about available medical assistance benefits for prenatal care, 124  
childbirth, and neonatal care and about the support obligations 125  
of the father of a child who is born alive. The department shall 126  
ensure that the materials described in division (C) (1) of this 127  
section are comprehensive and do not directly or indirectly 128  
promote, exclude, or discourage the use of any agency or service 129  
described in this division. 130

(2) Materials that inform the pregnant woman of the 131  
probable anatomical and physiological characteristics of the 132  
zygote, blastocyte, embryo, or fetus at two-week gestational 133  
increments for the first sixteen weeks of pregnancy and at four- 134

week gestational increments from the seventeenth week of 135  
pregnancy to full term, including any relevant information 136  
regarding the time at which the fetus possibly would be viable. 137  
The department shall cause these materials to be published after 138  
it consults with independent health care experts relative to the 139  
probable anatomical and physiological characteristics of a 140  
zygote, blastocyte, embryo, or fetus at the various gestational 141  
increments. The materials shall use language that is 142  
understandable by the average person who is not medically 143  
trained, shall be objective and nonjudgmental, and shall include 144  
only accurate scientific information about the zygote, 145  
blastocyte, embryo, or fetus at the various gestational 146  
increments. If the materials use a pictorial, photographic, or 147  
other depiction to provide information regarding the zygote, 148  
blastocyte, embryo, or fetus, the materials shall include, in a 149  
conspicuous manner, a scale or other explanation that is 150  
understandable by the average person and that can be used to 151  
determine the actual size of the zygote, blastocyte, embryo, or 152  
fetus at a particular gestational increment as contrasted with 153  
the depicted size of the zygote, blastocyte, embryo, or fetus at 154  
that gestational increment. 155

(D) Upon the submission of a request to the department of 156  
health by any person, hospital, physician, or medical facility 157  
for one copy of the materials published in accordance with 158  
division (C) of this section, the department shall make the 159  
requested copy of the materials available to the person, 160  
hospital, physician, or medical facility that requested the 161  
copy. 162

(E) If a medical emergency or medical necessity compels 163  
the performance or inducement of an abortion, the physician who 164  
will perform or induce the abortion, prior to its performance or 165

inducement if possible, shall inform the pregnant woman of the 166  
medical indications supporting the physician's judgment that an 167  
immediate abortion is necessary. Any physician who performs or 168  
induces an abortion without the prior satisfaction of the 169  
conditions specified in division (B) of this section because of 170  
a medical emergency or medical necessity shall enter the reasons 171  
for the conclusion that a medical emergency or medical necessity 172  
exists in the medical record of the pregnant woman. 173

(F) If the conditions specified in division (B) of this 174  
section are satisfied, consent to an abortion shall be presumed 175  
to be valid and effective. 176

(G) The performance or inducement of an abortion without 177  
the prior satisfaction of the conditions specified in division 178  
(B) of this section does not constitute, and shall not be 179  
construed as constituting, a violation of division (A) of 180  
section 2919.12 of the Revised Code. The failure of a physician 181  
to satisfy the conditions of division (B) of this section prior 182  
to performing or inducing an abortion upon a pregnant woman may 183  
be the basis of both of the following: 184

(1) A civil action for compensatory and exemplary damages 185  
as described in division (H) of this section; 186

(2) Disciplinary action under section 4731.22 of the 187  
Revised Code. 188

(H) (1) Subject to divisions (H) (2) and (3) of this 189  
section, any physician who performs or induces an abortion with 190  
actual knowledge that the conditions specified in division (B) 191  
of this section have not been satisfied or with a heedless 192  
indifference as to whether those conditions have been satisfied 193  
is liable in compensatory and exemplary damages in a civil 194

action to any person, or the representative of the estate of any 195  
person, who sustains injury, death, or loss to person or 196  
property as a result of the failure to satisfy those conditions. 197  
In the civil action, the court additionally may enter any 198  
injunctive or other equitable relief that it considers 199  
appropriate. 200

(2) The following shall be affirmative defenses in a civil 201  
action authorized by division (H) (1) of this section: 202

(a) The physician performed or induced the abortion under 203  
the circumstances described in division (E) of this section. 204

(b) The physician made a good faith effort to satisfy the 205  
conditions specified in division (B) of this section. 206

(3) An employer or other principal is not liable in 207  
damages in a civil action authorized by division (H) (1) of this 208  
section on the basis of the doctrine of respondeat superior 209  
unless either of the following applies: 210

(a) The employer or other principal had actual knowledge 211  
or, by the exercise of reasonable diligence, should have known 212  
that an employee or agent performed or induced an abortion with 213  
actual knowledge that the conditions specified in division (B) 214  
of this section had not been satisfied or with a heedless 215  
indifference as to whether those conditions had been satisfied. 216

(b) The employer or other principal negligently failed to 217  
secure the compliance of an employee or agent with division (B) 218  
of this section. 219

(4) Notwithstanding division (E) of section 2919.12 of the 220  
Revised Code, the civil action authorized by division (H) (1) of 221  
this section shall be the exclusive civil remedy for persons, or 222  
the representatives of estates of persons, who allegedly sustain 223



injury, death, or loss to person or property as a result of a 224  
failure to satisfy the conditions specified in division (B) of 225  
this section. 226

(I) The department of job and family services shall 227  
prepare and conduct a public information program to inform women 228  
of all available governmental programs and agencies that provide 229  
services or assistance for family planning, prenatal care, child 230  
care, or alternatives to abortion. 231

**Sec. 3701.341.** (A) The director of health, pursuant to 232  
Chapter 119. and consistent with Chapter 3726. and section 233  
2317.56 of the Revised Code, shall adopt rules relating to 234  
abortions and the following subjects: 235

(1) Post-abortion procedures to protect the health of the 236  
pregnant woman; 237

(2) Pathological reports; 238

(3) Humane disposition of the product of human conception; 239

(4) Counseling. 240

(B) The director of health shall implement the rules and 241  
shall apply to the court of common pleas for temporary or 242  
permanent injunctions restraining a violation or threatened 243  
violation of the rules. This action is an additional remedy not 244  
dependent on the adequacy of the remedy at law. 245

**Sec. 3701.79.** (A) As used in this section: 246

(1) "Abortion" has the same meaning as in section 2919.11 247  
of the Revised Code. 248

(2) "Abortion report" means a form completed pursuant to 249  
division (C) of this section. 250

(3) "Ambulatory surgical facility" has the same meaning as	251
in section 3702.30 of the Revised Code.	252
(4) "Department" means the department of health.	253
(5) "Hospital" means any building, structure, institution,	254
or place devoted primarily to the maintenance and operation of	255
facilities for the diagnosis, treatment, and medical or surgical	256
care for three or more unrelated individuals suffering from	257
illness, disease, injury, or deformity, and regularly making	258
available at least clinical laboratory services, diagnostic x-	259
ray services, treatment facilities for surgery or obstetrical	260
care, or other definitive medical treatment. "Hospital" does not	261
include a "home" as defined in section 3721.01 of the Revised	262
Code.	263
(6) "Physician's office" means an office or portion of an	264
office that is used to provide medical or surgical services to	265
the physician's patients. "Physician's office" does not mean an	266
ambulatory surgical facility, a hospital, or a hospital	267
emergency department.	268
(7) "Postabortion care" means care given after the uterus	269
has been evacuated by abortion.	270
(B) The department shall be responsible for collecting and	271
collating abortion data reported to the department as required	272
by this section.	273
(C) The attending physician shall complete an individual	274
abortion report for <del>each</del> <u>the abortion of each zygote,</u>	275
<u>blastocyte, embryo, or fetus</u> the physician performs <del>upon a</del>	276
<del>woman</del> . The report shall be confidential and shall not contain	277
the woman's name. The report shall include, but is not limited	278
to, all of the following, insofar as the patient makes the data	279

available that is not within the physician's knowledge:	280
(1) Patient number;	281
(2) The name and address of the facility in which the abortion was performed, and whether the facility is a hospital, ambulatory surgical facility, physician's office, or other facility;	282 283 284 285
(3) The date of the abortion;	286
(4) <u>If a surgical abortion, the method of final disposition of the fetal remains under Chapter 3726. of the Revised Code;</u>	287 288 289
<u>(5) All of the following regarding the woman on whom the abortion was performed:</u>	290 291
(a) Zip code of residence;	292
(b) Age;	293
(c) Race;	294
(d) Marital status;	295
(e) Number of previous pregnancies;	296
(f) Years of education;	297
(g) Number of living children;	298
(h) Number of <u>zygotes, blastocytes, embryos, or fetuses</u> <u>previously induced abortions aborted;</u>	299 300
(i) Date of last induced abortion;	301
(j) Date of last live birth;	302
(k) Method of contraception at the time of conception;	303

(l) Date of the first day of the last menstrual period;	304
(m) Medical condition at the time of the abortion;	305
(n) Rh-type;	306
(o) The number of weeks of gestation at the time of the abortion.	307 308
<del>(5)</del> <u>(6)</u> The type of abortion procedure performed;	309
<del>(6)</del> <u>(7)</u> Complications by type;	310
<del>(7)</del> <u>(8)</u> Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	311 312 313
(a) A test result indicating Down syndrome in an unborn child;	314 315
(b) A prenatal diagnosis of Down syndrome in an unborn child;	316 317
(c) Any other reason to believe that an unborn child has Down syndrome.	318 319
<del>(8)</del> <u>(9)</u> Type of procedure performed after the abortion;	320
<del>(9)</del> <u>(10)</u> Type of family planning recommended;	321
<del>(10)</del> <u>(11)</u> Type of additional counseling given;	322
<del>(11)</del> <u>(12)</u> Signature of attending physician.	323
(D) The physician who completed the abortion report under division (C) of this section shall submit the abortion report to the department within fifteen days after the woman is discharged.	324 325 326 327
(E) The appropriate vital records report or certificate	328

shall be made out after the twentieth week of gestation. 329

(F) A copy of the abortion report shall be made part of 330  
the medical record of the patient of the facility in which the 331  
abortion was performed. 332

(G) Each hospital shall file monthly and annual reports 333  
listing the total number of women who have undergone a post- 334  
twelve-week-gestation abortion and received postabortion care. 335  
The annual report shall be filed following the conclusion of the 336  
state's fiscal year. Each report shall be filed within thirty 337  
days after the end of the applicable reporting period. 338

(H) Each case in which a physician treats a post abortion 339  
complication shall be reported on a postabortion complication 340  
form. The report shall be made upon a form prescribed by the 341  
department, shall be signed by the attending physician, and 342  
shall be confidential. 343

(I) (1) Not later than the first day of October of each 344  
year, the department shall issue an annual report of the 345  
abortion data reported to the department for the previous 346  
calendar year as required by this section. The annual report 347  
shall include at least the following information: 348

(a) The total number of ~~induced abortions~~ zygotes, 349  
blastocytes, embryos, or fetuses that were aborted; 350

(b) The number of abortions performed on Ohio and out-of- 351  
state residents; 352

(c) The number of abortions performed, sorted by each of 353  
the following: 354

(i) The age of the woman on whom the abortion was 355  
performed, using the following categories: under fifteen years 356

of age, fifteen to nineteen years of age, twenty to twenty-four	357
years of age, twenty-five to twenty-nine years of age, thirty to	358
thirty-four years of age, thirty-five to thirty-nine years of	359
age, forty to forty-four years of age, forty-five years of age	360
or older;	361
(ii) The race and Hispanic ethnicity of the woman on whom	362
the abortion was performed;	363
(iii) The education level of the woman on whom the	364
abortion was performed, using the following categories or their	365
equivalents: less than ninth grade, ninth through twelfth grade,	366
one or more years of college;	367
(iv) The marital status of the woman on whom the abortion	368
was performed;	369
(v) The number of living children of the woman on whom the	370
abortion was performed, using the following categories: none,	371
one, or two or more;	372
(vi) The number of weeks of gestation of the woman at the	373
time the abortion was performed, using the following categories:	374
less than nine weeks, nine to twelve weeks, thirteen to nineteen	375
weeks, or twenty weeks or more;	376
(vii) The county in which the abortion was performed;	377
(viii) The type of abortion procedure performed;	378
(ix) The number of <del>abortions</del> <u>zygotes, blastocytes,</u>	379
<u>embryos, or fetuses</u> <del>previously performed on</del> <del>aborted by</del> the woman	380
on whom the abortion was performed;	381
(x) The type of facility in which the abortion was	382
performed;	383

(xi) For Ohio residents, the county of residence of the woman on whom the abortion was performed. 384  
385

(2) The report also shall indicate the number and type of the abortion complications reported to the department either on the abortion report required under division (C) of this section or the postabortion complication report required under division (H) of this section. 386  
387  
388  
389  
390

(3) In addition to the annual report required under division (I)(1) of this section, the department shall make available, on request, the number of abortions performed by zip code of residence. 391  
392  
393  
394

(J) The director of health shall implement this section and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of its requirements. This action is an additional remedy not dependent on the adequacy of the remedy at law. 395  
396  
397  
398  
399

Sec. 3726.01. As used in this chapter: 400

(A) "Abortion facility" means any of the following in which abortions are induced or performed: 401  
402

(1) Ambulatory surgical facility as defined in section 3702.30 of the Revised Code; 403  
404

(2) Any other facility in which abortion is legally provided. 405  
406

(B) "Cremation" has the same meaning as in section 4717.01 of the Revised Code. 407  
408

(C) "Fetal remains" means the product of human conception that has been aborted. If a woman is carrying more than one zygote, blastocyte, embryo, or fetus, such as in the incidence 409  
410  
411

of twins or triplets, each zygote, blastocyte, embryo, or fetus 412  
or any of its parts that is aborted is a separate product of 413  
human conception that has been aborted. 414

(D) "Interment" means the burial or entombment of fetal 415  
remains. 416

**Sec. 3726.02.** (A) Final disposition of fetal remains from 417  
a surgical abortion at an abortion facility shall be by 418  
cremation or interment. 419

(B) The cremation of fetal remains under division (A) of 420  
this section shall be in a crematory facility, in compliance 421  
with Chapter 4717. of the Revised Code. 422

(C) As used in this section, "crematory facility" has the 423  
same meaning as in section 4717.01 of the Revised Code. 424

**Sec. 3726.03.** (A) A pregnant woman who has a surgical 425  
abortion has the right to determine both of the following 426  
regarding the fetal remains: 427

(1) Whether the final disposition shall be by cremation or 428  
interment; 429

(2) The location for the final disposition. 430

(B) A pregnant woman who has a surgical abortion shall be 431  
provided with a notification form described in division (A) of 432  
section 3726.14 of the Revised Code. 433

**Sec. 3726.04.** (A) (1) If a pregnant woman desires to 434  
exercise the rights under division (A) of section 3726.03 of the 435  
Revised Code, she shall make the determination in writing using 436  
a form prescribed by the director of health under division (C) 437  
of section 3726.14 of the Revised Code. The determination must 438  
clearly indicate both of the following: 439



(a) Whether the final disposition will be by cremation or interment; 440  
441

(b) Whether the final disposition will be at a location other than one provided by the abortion facility. 442  
443

(2) If a pregnant woman does not desire to exercise the rights under division (A) of section 3726.03 of the Revised Code, the abortion facility shall determine whether final disposition shall be by cremation or interment. 444  
445  
446  
447

(B) (1) A pregnant woman who is under eighteen years of age, unmarried, and unemancipated shall obtain parental consent from one of the person's parents, guardian, or custodian to the final disposition determination she makes under division (A) (1) of this section. The consent shall be made in writing using a form prescribed by the director under division (B) of section 3726.14 of the Revised Code. 448  
449  
450  
451  
452  
453  
454

(2) The consent under division (B) (1) of this section is not required for a pregnant woman exercising her rights under division (A) of section 3726.03 of the Revised Code if an order authorizing the minor to consent, or the court to consent on behalf of the minor, to the abortion was issued under section 2151.85 or division (C) of section 2919.121 of the Revised Code. 455  
456  
457  
458  
459  
460

**Sec. 3726.041.** (A) A pregnant woman who is carrying more than one zygote, blastocyte, embryo, or fetus, who desires to exercise the rights under division (A) of section 3726.03 of the Revised Code, shall complete one form under division (A) (1) of section 3726.04 of the Revised Code for each zygote, blastocyte, embryo, or fetus that will be aborted. 461  
462  
463  
464  
465  
466

(B) A pregnant woman who obtains parental consent under division (B) (1) of section 3726.04 of the Revised Code shall use 467  
468

one consent form for each zygote, blastocyte, embryo, or fetus 469  
that will be aborted. 470

**Sec. 3726.042.** A form used under section 3726.04 of the 471  
Revised Code that covers more than one zygote, blastocyte, 472  
embryo, or fetus that will be aborted is invalid. 473

**Sec. 3726.05.** An abortion facility may not release fetal 474  
remains from a surgical abortion, or arrange for the cremation 475  
or interment of such fetal remains, until it obtains a final 476  
disposition determination made, and if applicable, the consent 477  
made, under section 3726.04 or 3726.041 of the Revised Code. 478

**Sec. 3726.09.** (A) Except as provided in division (B) of 479  
this section, an abortion facility shall pay for and provide for 480  
the cremation or interment of the fetal remains from a surgical 481  
abortion performed at that facility. 482

(B) If the disposition determination made under division 483  
(A) (1) of section 3726.04 or 3726.041 of the Revised Code 484  
identifies a location for final disposition other than one 485  
provided by the abortion facility, the pregnant woman is 486  
responsible for the costs related to the final disposition of 487  
the fetal remains at the chosen location. 488

**Sec. 3726.10.** An abortion facility shall document in the 489  
pregnant woman's medical record the final disposition 490  
determination made, and if applicable, the consent made, under 491  
section 3726.04 or 3726.041 of the Revised Code. 492

**Sec. 3726.11.** An abortion facility shall maintain 493  
evidentiary documentation demonstrating the date and method of 494  
the disposition of fetal remains from surgical abortions 495  
performed or induced in the facility. 496

**Sec. 3726.12.** An abortion facility shall have written 497

policies and procedures regarding cremation or interment of fetal remains from surgical abortions performed or induced in the facility. 498  
499  
500

Sec. 3726.13. An abortion facility shall develop and maintain a written list of locations at which it provides or arranges for the final disposition of fetal remains from surgical abortions. 501  
502  
503  
504

Sec. 3726.14. Not later than ninety days after the effective date of this section, the director of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to carry out sections 3726.01 to 3726.13 of the Revised Code, including rules that prescribe the following: 505  
506  
507  
508  
509

(A) The notification form informing pregnant women who seek surgical abortions of the following: 510  
511

(1) The right to determine final disposition of fetal remains under division (A) of section 3726.03 of the Revised Code; 512  
513  
514

(2) The available options for locations and methods for the disposition of fetal remains. 515  
516

(B) The consent form for purposes of section 3726.04 or 3726.041 of the Revised Code; 517  
518

(C) (1) A detachable supplemental form to the form described in division (B) (4) of section 2317.56 of the Revised Code that meets the following requirements: 519  
520  
521

(a) Indicates whether the pregnant woman has indicated a preference as to the method of disposition of the fetal remains and the preferred method selected; 522  
523  
524

(b) Indicates whether the pregnant woman has indicated a 525

<u>preference as to the location of disposition of the fetal</u>	526
<u>remains;</u>	527
<u>(c) Provides for the signature of the physician who is to</u>	528
<u>perform or induce the abortion;</u>	529
<u>(d) Provides for a medical identification number for the</u>	530
<u>pregnant woman but does not provide for the pregnant woman's</u>	531
<u>printed name or signature.</u>	532
<u>(2) If a medical emergency or medical necessity prevents</u>	533
<u>the pregnant woman from completing the detachable supplemental</u>	534
<u>form, procedures to complete that form a reasonable time after</u>	535
<u>the medical emergency or medical necessity has ended.</u>	536
<u><b>Sec. 3726.15.</b> A person who buries or cremates fetal</u>	537
<u>remains from a surgical abortion is not liable for or subject to</u>	538
<u>damages in any civil action, prosecution in any criminal</u>	539
<u>proceeding, or professional disciplinary action related to the</u>	540
<u>disposal of fetal remains, if that person does all of the</u>	541
<u>following:</u>	542
<u>(A) Acts in good faith compliance with this chapter and,</u>	543
<u>if applicable, section 4717.271 of the Revised Code;</u>	544
<u>(B) Receives a copy of a properly executed detachable</u>	545
<u>supplemental form described in division (C) (1) of section</u>	546
<u>3726.14 of the Revised Code;</u>	547
<u>(C) Acts in furtherance of the final disposition of the</u>	548
<u>fetal remains.</u>	549
<u><b>Sec. 3726.16.</b> Except for the requirements of section</u>	550
<u>3705.20 of the Revised Code, no conflicting provision of the</u>	551
<u>Revised Code or conflicting procedure of an agency or board</u>	552
<u>shall apply regarding a person who buries or cremates fetal</u>	553

remains in accordance with section 3726.15 of the Revised Code. 554

Sec. 3726.95. A pregnant woman who has a surgical 555  
abortion, the fetal remains from which are not disposed of in 556  
compliance with this chapter, is not guilty of committing, 557  
attempting to commit, complicity in the commission of, or 558  
conspiracy in the commission of a violation of section 3726.99 559  
of the Revised Code. 560

Sec. 3726.99. (A) No person shall fail to comply with 561  
section 3726.02, 3726.05, 3726.10, or 3726.11 of the Revised 562  
Code. 563

(B) Whoever knowingly violates division (A) of this 564  
section is guilty of failure to dispose of fetal remains 565  
humanely, a misdemeanor of the first degree. 566

Sec. 4717.271. The following applies to a crematory 567  
operator that cremates fetal remains for an abortion facility 568  
under Chapter 3726. of the Revised Code. 569

(A) A crematory operator shall not do any of the 570  
following: 571

(1) Cremate fetal remains without receiving a copy of a 572  
properly executed detachable supplemental form described in 573  
division (C)(1) of section 3726.14 of the Revised Code; 574

(2) Dispose of the cremated fetal remains by a means other 575  
than one of the following: 576

(a) Placing them in a grave, crypt, or niche; 577

(b) Scattering them in any dignified manner, including in 578  
a memorial garden, at sea, by air, or at a scattering ground 579  
described in section 1721.21 of the Revised Code; 580

<u>(c) Any other lawful manner.</u>	581
<u>(3) Arrange for the disposal of the cremated fetal remains by a means other than one described in division (A) (2) of this section;</u>	582 583 584
<u>(4) Arrange for the transfer of the cremated fetal remains for disposal by a means other than one described in division (A) (2) of this section.</u>	585 586 587
<u>(B) A crematory operator is not required to secure a death certificate, a burial or burial-transit permit, or a cremation authorization form to cremate fetal remains.</u>	588 589 590
<b>Section 2.</b> That existing sections 2317.56, 3701.341, and 3701.79 of the Revised Code are hereby repealed.	591 592
<b>Section 3.</b> Neither of the following shall apply until rules are adopted under section 3726.14 of the Revised Code:	593 594
(A) The prohibition under section 3726.99 of the Revised Code;	595 596
(B) The prohibitions under division (A) of section 4717.271 of the Revised Code.	597 598